

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 31 October 2006

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

26th Meeting 2006, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

Dr Sylvia Jackson (Stirling) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Michael McMahon (Hamilton North and Bellshill) (Lab)

*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*Tommy Sheridan (Glasgow) (Sol)

*Ms Maureen Watt (North East Scotland) (SNP)

COMMITTEE SUBSTITUTES

Mr Bruce McFee (West of Scotland) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Dr Elaine Murray (Dumfries) (Lab)

Murray Tosh (West of Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Margo MacDonald (Lothians) (Ind)

Frank McAveety (Glasgow Shettleston) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Leslie Brown (Aberdeen City Council)

Detective Superintendent James Cameron (Tayside Police)

Chief Inspector Mark Cooper (Grampian Police)

Ann Hamilton (Glasgow City Council)

Assistant Chief Constable John Neilson (Strathclyde Police)

Assistant Chief Constable Neil Richardson (Lothian and Borders Police)

Dr Teela Sanders (University of Leeds)

Councillor Kingsley Thomas (City of Edinburgh Council)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Rebecca Lamb

LOCATION

Committee Room 2

Scottish Parliament

Local Government and Transport Committee

Tuesday 31 October 2006

[THE CONVENER *opened the meeting at 14:03*]

Item in Private

The Convener (Bristow Muldoon): Under item 1 on our agenda, I ask committee members to agree to take in private agenda item 3, which concerns a draft report. Is that agreed?

Members *indicated agreement.*

Prostitution (Public Places) (Scotland) Bill: Stage 1

14:03

The Convener: Agenda item 2 is further consideration of the Prostitution (Public Places) (Scotland) Bill. Also attending the committee today we have Margo MacDonald MSP and Frank McAveety MSP. I welcome to the committee representatives of three of Scotland's local authorities that have views on the bill: Councillor Kingsley Thomas, from the City of Edinburgh Council; Leslie Brown, the community safety strategist for Aberdeen City Council; and Ann Hamilton, the principal policy officer for corporate policy for Glasgow City Council. I invite them to make some introductory remarks.

Councillor Kingsley Thomas (City of Edinburgh Council): After talking to the three of us, you will have an insight not only into the views of three councils but into the views of officers and elected representatives, which will be quite handy.

I think that this is the third time I have given evidence on the matter to which the bill relates. The first time was back in 2001—

Margo MacDonald (Lothians) (Ind): It was in 1800.

Councillor Thomas: Yes, and I last gave evidence on the matter in 2003.

The committee is well aware of Edinburgh's experience of prostitution issues and knows about the police's operational zone which, until 2001, operated with minimal impact on the community and residents in the area. You will also be aware that regeneration of the Leith area led to increasing problems with new residents who had moved into the area.

In 2001, a decision was made to move the zone to another part of town. It did not work out and the idea was abandoned. That led to dispersal of the problems associated with prostitution to other areas, such as the Salamander Street area and the residential areas around Leith Links. Since then, the council has worked hard with the police, the national health service, the Procurator Fiscal Service, voluntary organisations and others to try to reduce the impact on the local area and to help more women get out of prostitution.

We have a sex industry interagency strategy group that is doing good work at the moment. There are four strings to our bow: we are dealing with the enforcement and antisocial behaviour issues; we are trying to prevent people moving into prostitution; we are doing harm-reduction work around those who are already in prostitution; and we are helping with routes out of prostitution and into other things.

We are concerned that the bill does not provide an offence of loitering in a private car, which means that it would not address residents' concerns about kerb crawling or nuisance issues.

We also have issues with the test of the offence being that it is

"likely to cause alarm, offence or nuisance to a reasonable person".

We feel that that requires greater clarification.

We have noted that particular issues have arisen in Edinburgh—and, no doubt, elsewhere—with regard to the burden of evidence that is required in the courts. We hope that the bill can resolve those issues.

Leslie Brown (Aberdeen City Council): I am the community safety strategist in Aberdeen City Council's strategic leadership service. I take the lead for the council on a range of community safety issues, including prostitution, the joint sex industry forum and antisocial behaviour, which is not unlinked to the issues the bill seeks to address. The forum is concerned with the cross-cutting issues that need to be dealt with in relation to tackling street prostitution.

Since 2001, we have had a management zone in Aberdeen. It is a small part of our harbour area—which is close to Aberdeen city centre—where street prostitution has historically taken place. In that area, prostitutes will not be arrested for soliciting after 5 pm—or 9 pm in certain parts of it—provided they are not involved in any other offence.

The zone is not about tolerating, encouraging or promoting prostitution; it is about recognising that it happens and that we need to try to manage its impact on local residents and businesses. It is a working harbour—there are many businesses in

the area. The zone is also intended to help with issues relating to the safety of the prostitutes. It provides a focus for health and other services. Not least, it helps to prevent street prostitution spreading into other areas of the city centre.

The joint sex industry forum is considering the future of the management zone, which has been running for five years. We need to take account of the potential impact of the bill and the draft guidance and of the way in which prostitution is developing in Aberdeen. Our submission outlines our position on the bill.

Councillor Thomas mentioned that there seem to be challenges in making the bill work. If the bill is passed and does work, we would regard it as a tool in the box to deal with the nuisance associated with prostitution. While we will work with the police and others to make best use of it, we still need clarification on how it will work and how to get cases to court. I am concerned that it may remain easier to target the women prostitutes than the male clients. One of the aims of the bill is to equalise the offence. That may be the case in principle, but it might not work that way in practice.

Ann Hamilton (Glasgow City Council): Our approach in Glasgow is informed by an analysis of prostitution as violence against women. We see it as harmful to women, families and communities. Over the past eight years, we have developed an approach that takes account of prevention. That approach includes the work that we are doing in schools, work with employees and citizens in Glasgow about the nature of prostitution, and provision for the women involved. Its basis is harm reduction—the committee heard about that last week in evidence from colleagues—and exiting support, which we have developed over the past five years. Supporting women out of prostitution has proved to be particularly difficult and intensive work.

One area in which we have perhaps had less success is tackling the demand for prostitution. We feel that the men who come into areas to buy sex need to be targeted. We need powers to do that. We are also concerned about the impact on communities, whether local residents or workers in call centres and factories, where prostitution is taking place. Those are the areas where there are gaps at the moment.

We work closely with colleagues. We have a strategic partnership, which operates under the auspices of Routes Out, in which we talk about the kind of approach that we need to take and look at exiting opportunities and management, and we have two other interagency groups that are designed to look at the changing nature of street prostitution in the city. As the committee heard last week, prostitution has changed significantly in the past few years. Two areas that are particularly

affected, the city centre and the east end, are different in nature. One is a commercial and financial centre with tourism and so on, the other is a residential area. Street prostitution causes problems for both areas.

We welcome the intent of the bill but are concerned that the detail will not give the police the powers necessary to make a difference. We recommend that section 42 of the Civic Government (Scotland) Act 1982 be retained as a means of supporting women into diversionary opportunities and that the bill be amended to consider kerb crawling. As Leslie Brown and Councillor Thomas have mentioned, we hear time and again from local residents, workers and so on about the distress and fear that is caused by kerb-crawlers.

The Convener: I thank all three of you and invite questions from the committee.

14:15

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I have been reading the written submissions. My first question is addressed to Leslie Brown and relates to the submission from Aberdeen City Council. Your submission states that you aim to

“ensure that the very vulnerable and damaged group of people”—

women—

“involved in street prostitution are not further exploited.”

It also states that, five years ago,

“Grampian Police established a prostitution management zone”

where prostitutes

“are not subject to arrest for soliciting”.

Clearly, they are not going to be arrested. As I understand it, the whole purpose of the bill is to equalise the criminality of prostitution so that not just the women but the men are prosecuted. Will the bill have any effect if there is a prostitution management zone in Aberdeen in which the current powers are not used and people are not prosecuted? What is the point of having a bill to equalise the prosecution if people are not going to be prosecuted?

Leslie Brown: That is an interesting question. As I understand it, the bill seeks to introduce an offence to tackle the nuisance that is associated with street prostitution rather than prostitution itself, which is what the soliciting offence covers. The management zone is a very small area of the harbour and works only from 5 o'clock at night. In one street, where businesses work late, it works from 9 o'clock at night to protect the workers there.

Prostitution is complicated. There are lots of compromises and balances that the council and its partners have to make to manage the situation. There is no magic wand. The problem will not disappear overnight, no matter what we do, so we have to find ways to manage it. Nevertheless, our overall aim remains to help women out of prostitution.

Mike Rumbles: As we all know, prostitution is not illegal. The bill would create two offences, the first of which is soliciting. That is what the women would be prosecuted for doing. To equalise that, and to try to take away the demand, the bill would also create the offence of loitering, which would ensure that so-called kerb-crawlers were hit as well. My question goes back to the fundamentals. What is the point of our changing the law by passing the bill if nobody is prosecuted for those criminal offences? There is no point equalising an offence if nobody is prosecuted.

Leslie Brown: We are reviewing the future of the zone for a variety of reasons, not least of which is the potential impact of the new legislation and the draft guidance on tackling street prostitution. Also, the zone is five years old and things have changed. If the bill is passed, the zone may not operate as it currently operates—but we are not at that stage yet.

Mike Rumbles: I cannot understand how the bill would impact on the zone. The police do not prosecute people in the zone under the current law, even though they are committing a criminal offence. If we change the law to have two offences rather than one, the police will still not prosecute people in the management zone that has been agreed by Aberdeen City Council and Grampian police. You say that the zone was set up by Grampian police, so my question may be more appropriately addressed to the police on our next panel of witnesses, but I would like to know the view of Aberdeen City Council, which you represent. Do you agree with my interpretation of your evidence, which is that the bill would have no effect in the Aberdeen prostitution management zone?

Leslie Brown: It is too early to say. If it looks as though the bill will be passed, we will need to sit down with the police and other partners and discuss whether the management zone is still a reasonable and viable thing to have. My reading of the offence that would be created by the bill is that it would be left to the discretion of the police, as is the case with many other offences.

Mike Rumbles: Okay, I will ask the police when they come to give evidence.

Paul Martin (Glasgow Springburn) (Lab): You mentioned the management zone and said that you would consider the position. My question is

similar to Mike Rumbles's. Do you think that you would be legally entitled to continue with the management zone?

Leslie Brown: At this point, I cannot see why not if we felt that it was still an appropriate thing to do. As I understand it, the offence would be much like breach of the peace, in that it would be left to a police officer to decide what priority should be given to using the offence. Unless I have missed something at this early stage in the game, I do not think that putting the offence on the statute book would preclude our operating the management zone.

Paul Martin: I take it that management zones are set up in non-residential areas.

Leslie Brown: They are largely non-residential. There are residential areas on the periphery of such zones. The people who live in Footdee, a village on the Dee, have to travel through part of the management zone, but most of the zone is occupied by oil-related businesses.

Paul Martin: I have been looking at page 3 of your submission, which says that you are

“keen to dispel myths and misconceptions about prostitution,”

but how can you do that if you are at the same time setting up a management zone, effectively putting the activity out of sight and out of mind? If you set up the zone in an area that is as far away as possible from residential areas, surely it will also be more difficult to police.

Leslie Brown: It is not really out of the way. Anybody who knows Aberdeen will understand the relationship of the harbour area to the city centre. It is very close and there are a lot of businesses there, as well as the village of Footdee and all the entertainment at the beach. It is not a particularly out-of-the-way area. We have set up a zone in an area where street prostitution seems always to have taken place, to try to minimise the effects of prostitution on the wider harbour area and to keep it from spilling into other areas. It is not a matter of putting prostitution into an estate on the periphery of Aberdeen where it will be out of the way. We are managing on the ground an issue that is real and has been for some time.

Paul Martin: Given that we are crystallising the legislation and providing a legal remedy—although we all have different views on how enforceable it will be—do you accept that, with the management zone, you will effectively be managing people while they break the law? You will be assisting people who are involved in an illegal activity.

Leslie Brown: As I said, prostitution is a complex issue. The bill seems to be tackling only a fairly narrow issue related to prostitution—the nuisance behaviour associated with street

prostitution. It does not seek to tackle the wider social issue or the moral problems of prostitution. I do not think that a local authority, a police force or a management zone can tackle those wider issues. We are concerned, as are colleagues in Edinburgh and Glasgow, about the revolving-door effect: prostitutes are picked up for soliciting, taken to court and fined—and then have to go out and work even harder to make up the money that they have lost in fines. That is not a helpful approach to tackling prostitution or to working with women to build up their self-esteem.

However, on the other hand, we have a responsibility to protect wider communities. This is a compromise in an ill-divided world. We do not claim that it is a perfect solution. We have to compromise and balance our big aim with the need to manage the situation on the ground.

Paul Martin: Glasgow City Council has given significant resources to Routes Out, whose success we have talked about. Leslie Brown said that the issue is complex and that it is difficult to gauge how effective programmes have been. Is that the case with the Routes Out programme? Is it difficult to say, "We've had this many women through the project and here are the success stories"? How easy is it to evaluate?

Ann Hamilton: An evaluation report has been produced that shows that the team is working well. In fact, the team has doubled in size over the past year, so we will see more success there. We know that it is really difficult to help women out of prostitution. The work is intensive, it takes a long time and in many instances the women fall out of the support systems. However, we can certainly point to a number of successes.

Paul Martin: You have facts and figures that show how many women have gone through the project and where they have gone?

Ann Hamilton: Absolutely. And now that we have doubled the size of the team, we are hoping to expand that information.

In Glasgow, we are trying to use mainstream services. It is not just about the specific services that we have provided for women involved in street prostitution; community addiction teams and other criminal justice disposals have been really important. The 218 centre, which has been supported by the Scottish Executive, has been very important in providing a way out for women involved in prostitution.

Paul Martin: What would be the impact on your work of the bill being passed? Is there a need to look at the purchaser? At the moment, there is parity in the enforceable legal remedy for the purchaser and the seller. Do you think that the available fines for the purchaser should be ramped

up rather than stay at the same level as the available fines for the seller?

Ann Hamilton: We need powers to deal with kerb-crawlers in a number of ways. The first thing we have to do is send out to men who are causing fear and alarm night after night in residential and commercial areas the message that their behaviour is not acceptable and describe to them the experience of the residents who live in such areas. The evidence that some of those residents gave the committee last week showed how difficult it is to live in an area that is plagued by street prostitution.

We also need the power to do something about the men who are engaged with street prostitution. We know an awful lot about the women, how vulnerable they are and the violence that they experience, but we know very little about the men who are using women in prostitution. England and Wales, which have had kerb-crawling legislation for some time, have more information about the men. The men who are kerb crawling are quite often involved in other serious sexual or violent offences. It has been helpful for the police forces in England and Wales that kerb crawling is a specific offence.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Thank you for your evidence, which is most reassuring. Last week, we heard evidence from three ladies from various parts of Scotland. All of them said that they would like kerb crawling to be made an offence. Am I right in saying that that is also the position of the three councils that you represent?

Leslie Brown: Yes.

14:30

Councillor Thomas: Yes. As Mike Rumbles said, it is about equalising the position. At the moment, it seems easy for the women to be picked up and charged, but difficult to do anything with the men.

Fergus Ewing: It seems to me that, if we want to prevent men from buying sex or reduce the incidence of men buying sex and thereby reduce prostitution, the act of buying sex should be made an offence. The flaw in the bill is straightforward: it does not do that but instead criminalises

"A person ... who ... solicits in a relevant place in such a manner or in such circumstances as a reasonable person would consider to be likely to cause alarm, offence or nuisance".

So, instead of a man who buys sex committing an offence by buying sex, he will commit an offence if, in some unspecified way, his buying sex causes a nuisance. That seems to me to be wrong. We want to say that buying sex is an offence. Do you

agree that the lack of effectiveness, which each of you has talked about in different ways, would be tackled if we took the basic approach that it is morally wrong and should be a criminal offence for men to buy sex?

Councillor Thomas: It is worth thinking about that, but it will not solve the problem. Prostitution is the world's oldest profession, as is often said. Local authorities, health boards and the police are often left having to deal with such issues. In different ways, we have tried not to bury our heads in the sand and pretend that prostitution does not go on in our three cities. We know that it does and we are trying to minimise its impact on local people and women who are involved in prostitution.

Off the top of my head, I am not sure whether we should make the act of purchasing sex illegal. If we did, we would still be talking about and trying to minimise the same problems; it would not solve prostitution all of a sudden. As Leslie Brown said, the issues are complex and we have taken different approaches in the three cities because there are three different scenes—there are different issues in the three different places—and three different solutions are needed. We are looking for more tools in the toolbox to deal with the issues better and more appropriately at a local level. However, it is worth considering criminalising the purchase of sex.

Ann Hamilton: Glasgow City Council would support moving towards the position that buying sex is a criminal offence. That would help to disrupt the market and would send out a helpful signal to the public and to the men that it is unacceptable to buy sex. That is one of the important things that happened after the change in legislation in Sweden. There was a lot of criticism of that change, particularly from those who lobby for the sex industry to be regulated and remain part of society, but the criminalisation of the buying and facilitating of sexual services has brought about attitudinal change in the public. That is what we would want to happen. We would not want to lock up lots of people but would want people to see prostitution for what it is: a very exploitative, very harmful trade that targets the most vulnerable men and women in the cities that are represented here.

Fergus Ewing: That was certainly the view that Jennifer McCarey expressed last week. She said of men who solicit sex:

"Society tells them that that is acceptable behaviour. Our community group says that that is unacceptable."—[*Official Report, Local Government and Transport Committee*, 24 October 2006; c 4148.]

I do not quite understand the difference between saying that buying sex is a crime and "moving towards that position", which is what you called

for. I do not understand how, in law, we can move towards that position. Is it not the case that either we have that position or we do not?

Ann Hamilton: I suppose that we have not had an opportunity to look at taking that forward. Certainly, we in Glasgow have supported the idea. We see the issue as being to do with violence against women. We are not regulating any other form of violence against women. The council has not agreed a policy approach to the issue of criminalising the buyers but, certainly, the idea would be supported.

Fergus Ewing: I am not suggesting that the measure would remove prostitution, but I would hope that it would substantially reduce prostitution and, as you say, change attitudes.

Paragraph 5.43 of your submission says that, in England and Wales, under the Sexual Offences Act 2003, an offence is committed if a man persistently solicits women for the purposes of prostitution. That suggests that buying sex is a crime in England and Wales.

Ann Hamilton: Yes, my understanding is that it is an offence to buy sex on the street in England and Wales. That has been part of the discussions that we have had with the Scottish Executive on the bill. The Association of Chief Police Officers supports that policy and uses it as one of the ways in which it deals with street prostitution in England and Wales.

Fergus Ewing: Last week, Jennifer McCarey from the Calton area of Glasgow told us about kerb crawling. She said:

"Kerb crawling is ... a car slowly following you and creeping along beside you. Often you are the only person in the street. The car stops until you catch up, then it drives slowly beside you and stops. It is tremendously intimidating behaviour, which does not involve rolling down a window and talking to you."—[*Official Report, Local Government and Transport Committee*, 24 October 2006; c 4149.]

In your submission, you say that the bill that we are discussing should include provisions similar to the ones that exist in legislation in England and Wales, which involve disqualifying kerb crawlers from driving.

Ann Hamilton: Any such deterrent would be welcome. In England and Wales, vehicles that have been used to kerb crawl can be seized. Again, that would be a major deterrent.

It is not only residents who have had the experience that you described. Yesterday, a couple of our outreach workers told me that they were regularly approached by cars. They said that, sometimes, there was no discussion, but the cars would follow them around and around. They told me that they could identify who was kerb crawling and looking to buy sex. They wanted those men to

be identified and for something to happen about that activity.

Fergus Ewing: I hope that we can consider forfeiture of the cars as well. I am most grateful for that information. I hope that we can amend the bill to incorporate your suggestions.

The Executive's bill says that there will be no offence if the man—it will usually be a man—is in a motor vehicle. That seems to me to suggest that this is not so much the Prostitution (Public Places) (Scotland) Bill as it is the Kerb Crawling (Enabling) (Scotland) Bill because it specifically states that kerb crawling is legitimate. I presume that all three councils that are represented here today believe that that is wrong and should be changed when we proceed to stage 2.

Ann Hamilton: Yes.

Councillor Thomas: Yes.

Leslie Brown: Yes.

Michael McMahon (Hamilton North and Bellshill) (Lab): My concerns about the bill have largely been addressed by the answers that Ann Hamilton gave to the questions relating to the ways in which we can tackle the demand. However, I am also concerned about the management issue. I have some concerns about the perception that, somehow, something that is considered by society to be wrong and which creates offences is considered to be okay if it is contained within a geographical area but is to be frowned on if it is not. Perhaps we should move away from such a perception and take a more generic approach, by treating the issue as one of supply and demand. The real concern is demand and not whether the activity is managed or not, so perhaps we should focus on demand.

Leslie Brown: Aberdeen operates a management zone, so I will go first.

You are right. If we want to tackle prostitution seriously, we need to tackle demand. That has to happen at national level; we cannot significantly address the issue locally. Until there is a national approach to tackling demand, we must deal with what is happening on the ground.

We struggled with the decision about what to call the management zone. For a while, we called it the "tolerance zone", but we did not want to send a message that tolerating prostitution is a great idea, so we changed the name to "management zone" for want of a better description. Of course, we do not go out and manage acts of prostitution; we manage problems on the ground in an area in which prostitution has probably taken place for hundreds of years, because it is the working harbour area.

I talked about the need to try to work with the women, to break the cycle in which they have to work harder to pay fines. We must live in the real world, but we are all aware that in doing so we potentially compromise our greater ideals. Unless we witness the sea change that Fergus Ewing talked about and make a quantum leap to the criminalisation of the purchase of sex, so that we can tackle demand, we must be realistic about the situation on the ground.

As I said, the management zone is an area in which there has always been prostitution. If the harbour area were developed to provide much more residential accommodation, as happened in Leith, I cannot envisage our being able to set up a zone elsewhere. When we consulted on Margo MacDonald's Prostitution Tolerance Zones (Scotland) Bill, we received good feedback from communities. People had sympathy with the principles behind the bill, but thought that the practicalities would be a nightmare. As we have learned more about the issue, we have realised that all that we can do in the current legislative climate and given current public awareness is to manage the situation on the ground and try to secure as many wins as possible without compromising our ideals too much.

Councillor Thomas: That is right. Someone asked why we still need managed zones if we are considering increasing legislative powers to deal with demand. In an ideal world, we would not need managed zones. However, there will be a transitional period when a city might decide that, short of clearing the whole prostitution scene out of the city, it will use managed zones alongside changes to legislation.

When we operated the zone in Edinburgh in the 1990s, we did not face the issues that we now face in residential areas, in particular around Leith Links. The city has changed since then and it would now be difficult for us to find a zone and try to operate it. That is why we are taking more of a multi-agency approach. We are considering different aspects involving demand, for example trying to deal with or manage demand, and we are trying to deal with routes out and harm reduction. Those issues are not mutually exclusive. I suppose that what we are looking for is more and better ways to try to tackle the problem. It looks as if we will get some things out of the bill, while retaining some local flexibility to deal with local issues.

14:45

Ann Hamilton: One of the reasons for the establishment of management zones and tolerance zones was to provide services to the women. We all struggle with that because they are probably the most vulnerable of any group. They

have the highest drug use of any group, certainly in Glasgow. They have often lost care of their children, they have no financial support and, despite the fact that they are obviously getting money each day, they have no goods or belongings. There is also a high level of homelessness among the group. It is that concern that has led to the introduction of management zones in some places.

In Glasgow, we have chosen to develop services to meet the needs within areas. In the east end, where there has been prostitution for a long time, there is increasing recognition of the situation. We do outreach work for women—we make contact with them—and a drop-in service is available to them. One of the real movers for approaches such as management zones is that they allow services to be provided in different ways. That is one of the approaches that we have taken.

Michael McMahon: That information is helpful, but one issue that has come up in previous evidence and statements from some of you is the name of the bill. There is the idea that it might stigmatise the women involved and create difficulties as you try to help them out of prostitution. What could we call the bill to reduce that?

Ann Hamilton: At the moment, as far as I understand it, the words “prostitution” or “soliciting” do appear when the women go through Disclosure Scotland or when they fill out criminal convictions forms. However, the problem that arises is very much about attitudes, as soliciting and prostitution are seen as sexual crimes. The fact that the bill will say “Prostitution ... Bill” in big letters and that it will talk about public nuisance may make it more difficult for women to make the case that they are out of prostitution—that they are no longer involved in that activity. Many women are blackmailed or targeted for sex after they have come out of prostitution by colleagues in whom they may have confided or who may have heard about their background. Nobody wants to hide the nature of the offence, but if it becomes known as a public nuisance offence, it may make rehabilitation more difficult.

Margo MacDonald: I start by asking Ann Hamilton about one or two of the details. You said that there are stats on the success of the approach in Glasgow—the diffuse services and so on. Do you have those statistics? You have been running the same sort of strategy for eight years. By what percentage has the number of street prostitutes in Glasgow dropped? I want to try to work out whether your approach has a proven record of success, if success is a reduction in the number of women on the streets.

Ann Hamilton: I do not think that we can say that there has been a reduction in the number of women on the streets. What we can say is that we have supported women out of prostitution. Until such time as we stop or diminish the demand, it is very difficult to stop the supply.

If, for example, we were to sort the drugs problem in Glasgow tomorrow, a different group of women would be out on the streets of the city the next day; there are other vulnerabilities that result in women having to sell sex. Our success has been in supporting women out of prostitution. I hope that we have also had success in preventing women from becoming involved. Unless we get more powers—even some powers—to tackle demand, we will not be able to show a reduction in the number of women on the streets.

Over the past few months, the police and the council have targeted indoor prostitution, as a result of which three sauna owners have pled guilty to the offence of running a brothel. We have also brought about one closure. That has reduced the number of men who attend those saunas or brothels. We are looking to cause that sort of disruption on the streets of Glasgow.

Margo MacDonald: I agree with the analysis that if we can bring about a drop in demand, supply will drop off, too. I have seen statistics on that—I think that they were from Birmingham and Middlesbrough, where kerb-crawling legislation is applied more rigorously and consistently. Have you seen those statistics? Is there a proven record of success in reducing demand from men? Why do you assume that the men who were named and shamed in the places in England where that is done no longer use prostitutes? There is such a thing as a mobile phone.

Ann Hamilton: I cannot give the figures for Birmingham and Middlesbrough. However, this morning, I took a quick look at the figures for one of the programmes. In Hampshire, 383 men were arrested for kerb crawling over the past year, 82 of whom ended up in court. That was either because they were precluded from attending the kerb-crawling school or did not pay their fine, which meant that they could not go on the programme. The statistics from Hampshire show that only four of the 383 men reoffended.

Margo MacDonald: What about the second part of the question? The men might not own up to what they have done.

Ann Hamilton: That is right. However, many men will be deterred to the point that they will not engage again. Others will become involved again. We know that women are using mobile phones. That is a major concern, as they may be drawn to areas where there is no closed-circuit television coverage or police presence.

Margo MacDonald: In our evidence taking last week, we heard that there has been stronger enforcement of the law over the past few months in Glasgow. We were told that, up until that point, the police had operated a de facto management strategy or policy.

Ann Hamilton: I read that evidence in the *Official Report* of the meeting, but that is not the case at all. Assistant Chief Constable John Neilson will appear before the committee later this afternoon. He can give the committee the figures. I have just checked the figures for the past six years. Six years ago, there were 353 charges and thereafter the annual totals were 266, 280, 343, 786, and 246. There was a large increase in 2004-05—that is the figure of 786. It is a widely reported myth that the police have not charged women in Glasgow. It has never been the case.

Margo MacDonald: I was aware of that.

The Convener: You can ask just one more question at the moment, Margo, because three more people have questions.

Margo MacDonald: I have not spoken to Councillor Thomas, but anybody else who wants a shot can have one now if I get the chance to ask him a question afterwards.

The Convener: I will let you ask one more if you want.

Margo MacDonald: Will Councillor Thomas describe what the situation with street prostitution in Edinburgh will be if the bill is not agreed to?

Councillor Thomas: I hope that that will not happen because, although we have identified issues with the bill, it is probably better than what we have at the moment. It gives us something else to work with, although it could give us more if some changes were made to the wording and if some of the measures that we have discussed were added. There are probably quite a lot of people, particularly in Leith, who look to the council, the Parliament, the health service and the police to try to sort out some of the problems in their area, and we would be letting them down if the bill was not agreed to. We all have a responsibility to ensure that something happens and that we get as good a bill out of the process as we can.

Margo MacDonald: Thank you. I wanted the committee to hear that.

Mr Frank McAveety (Glasgow Shettleston) (Lab): I will echo what Kingsley Thomas just spoke about. The Calton residents were at the committee last Tuesday—I apologise that I could not make it; I was detained elsewhere. In the past seven years, I have noticed the extensive levels of prostitution in Calton, even with heavy enforcement by the London Road division of

Strathclyde police in response to public concerns about intrusion. We are talking not just about weekends, but about early mornings, 11 o'clock or half past 12. It happens in the daytime as much as the early or late evening, and there have even been occasions when delegations visiting the area to try to address the issue have been approached by some of the girls who are involved.

The community in Calton knew that and has known it for years but, over the past six or seven years, the situation has become markedly more difficult for the residents, which is why the committee heard a cry of despair last week. The evidence from the Calton residents was about the need to try to find other ways of dealing with the problem. There are different views on prostitution among the people in this room, never mind in wider society, but we need to find measures to deal with the issues.

I would like to get a sense of the language that the witnesses would like in the bill. They all touched on definitions, and the submission from the Association of Chief Police Officers in Scotland goes into more detail about that issue. How do we make the definitions more accurate? What wording might provide the greater powers that the witnesses want? To date, even with powers under breach of the peace and with support by the local police force, we have not succeeded in tackling the demand. We have had minor successes on road traffic offences with individuals in cars, but the community suffers intimidating behaviour at all times of the day from men who are seeking sex.

The witnesses also talked about multi-agency work. I worry a wee bit about that. I do not know whether the witnesses have seen the ACPOS submission. ACPOS went to the Procurator Fiscal Service in Glasgow and showed the PF evidence from CCTV footage. It worries me that the Procurator Fiscal Service seems to think that some of the actions in that footage are not worth dealing with. I am pretty sure that, if the PF lived in the close where it was happening, they would say that something should be done about it. I would like to hear your views about how we can get the various agencies to realise the seriousness and severity of the problem.

Councillor Thomas: I am not a lawyer or an expert in semantics but, in any bill, the wording is crucial. Members have put it to me that if I can tell them what I want the bill to say, they will try to include it. In other parts of the UK and in other European countries, particularly in Scandinavia, the legislation seems to be stronger than the legislation that is proposed here. I see no harm in looking beyond Scotland to find out what is happening and judging whether that would fit here. The wording is crucial. If, collectively, we can provide assistance, we are happy to do that.

15:00

Ann Hamilton: It would be useful to use the term “kerb crawling”, as most of us understand what it means and kerb crawling is certainly what causes distress to residents in Leith and Calton. We would have to come up with a definition. We are keen to work with people to consider a helpful definition. As reaching a definition does not seem to have been a problem in England and Wales, it is worth considering the provisions that have been used there.

David McLetchie (Edinburgh Pentlands) (Con): I have questions for Councillor Thomas about the Edinburgh experience and its lessons for us. I think that he said that further legislation is necessary, otherwise we might be thought to be letting down people in Leith. Is it fair to say that people in Leith were let down for a considerable period by a wilful failure to enforce the present law, never mind any new law, and that that was the basis for the abandonment of the tolerance zone policy?

Councillor Thomas: No. The problems have got worse since the abandonment of the managed or tolerance zone. The zone was a reaction to particular issues that were well known in Edinburgh at the time, such as the drugs and AIDS problems and the effect that prostitution could have had on the spread of that disease. The problems in the city now, which tend to be concentrated in Leith, are not a result of the operation of the zone; they are a result of the zone not working out.

David McLetchie: After the original zone around the Coburg Street triangle was abandoned because of protests from residents, an attempt was made to relocate the zone around Salamander Street, which dispersed the problem into the wider Leith Links area. If I understood the evidence that we heard last week correctly, that led to wide-scale protests from residents in the area. The evidence from Leith Links residents association was that, whereas at the height of the problem 15 to 20 prostitutes were plying their trade in and around the Leith Links area, as a result of effective enforcement and more visible police activity, that problem has largely disappeared. We were told that there are now two or three prostitutes. Is that your perception?

Councillor Thomas: My information is that about five or six women are usually out at night, although the figure can go up to 10. The numbers are certainly reduced from what they were in the immediate aftermath of the ending of the zone.

David McLetchie: So effective policing reduced the particular narrow problem of street prostitution as a public nuisance.

Councillor Thomas: The reduction is not just a result of policing. The joint agency approach involving the council, the health board, the police and the Procurator Fiscal Service has helped.

David McLetchie: The effective measures must be the abandonment of the tolerance or management zone and the more effective and visible approach to policing. All the other factors to which you refer were in place previously, so the difference is that prostitution is not being tolerated and the law is being enforced. Is that correct?

Councillor Thomas: If you are suggesting that the abandonment of the tolerance zone has led to a reduction in the problem, that has not been the case.

David McLetchie: I am asking whether the evidence that we heard last week is correct. Residents of the Leith Links area told us last week that whereas a major nuisance problem had resulted from a considerable number of women being engaged in street prostitution, as a result of more effective and more visible enforcement of the present law by the police the number of women who engage in street prostitution in the area has significantly declined and is nowhere near the nuisance that it was. Do you agree that the factual case is that the activity has declined?

Councillor Thomas: If we are talking about 2006 in comparison with 2002-03, for example, the answer is yes.

David McLetchie: Can you identify other areas in the city that, as a result of the actions that have been taken in and around Salamander Street and Leith Links, have developed as centres for the activities of street prostitutes?

Councillor Thomas: Not really, but other non-street prostitution scenes exist throughout the city.

David McLetchie: Yes, but our focus is on the public nuisance of street prostitution. All of us accept that a much wider issue of prostitution and the buying and selling of sex exists, but the bill will amend the law on the narrow issue of street prostitution. If I understand your evidence, we come back to the idea that enforcement of the present law has resulted in a diminution in street prostitution, the public nuisance of which we are meant to address. If I interpret what you say fairly, there is no evidence that that enforcement has increased the level of street prostitution activity anywhere else in the city. Is that correct?

Councillor Thomas: I suppose that it is, but we believe that we could do more with different and strengthened legislation. Resources can be concentrated in an area, a lot of money can be spent and extra staff can be involved, but sometimes maintaining such presence levels is difficult. My concern is that, without being given

different approaches to deal with the different issues, we might be reasonably successful but not as successful as we could be.

David McLetchie: Do you agree that you will succeed only if you enforce any law that is passed?

Councillor Thomas: Of course, any law that is passed can work only if it is enforced.

David McLetchie: If we passed a law that prevented people from loitering in a car for the purpose of buying sexual services, your view is that that would be effective only if the police enforced it.

Councillor Thomas: Of course.

David McLetchie: So if prostitution is tolerated, as in the situation in Aberdeen that Mr Rumbles described, that will not reduce the incidence.

Councillor Thomas: The issue is the problems that street prostitution causes to residents and people who live on the periphery of affected areas. We are dealing with the street prostitution scene and we want the legislation to be improved so that we can tackle the nuisance that that causes to residents. Through various mechanisms, we will continue to work with vulnerable women to prevent them from becoming involved in the scene in the first place or to help those who are caught up in it to get out of it. We are trying to contribute to increased legislative powers to help to reduce the impact on communities where the problem exists.

David McLetchie: The impact will be reduced only if more people are arrested and prosecuted.

Councillor Thomas: Another way to reduce the impact is to stop people from going to those areas or to help them out in the first place.

David McLetchie: Would not a more visible police presence in an area deter people from going there?

Councillor Thomas: Possibly. That is an aspect. There is no simple solution—if there were, we would have adopted it years ago.

David McLetchie: No, but we are not talking about the wider social ill of prostitution; we are talking about a bill with a narrow purpose, which is to deal with street prostitution. That is not the same thing as phoning a mobile number and arranging a liaison in another spot. We are talking about street prostitution and the nuisance that it creates for people who live in the area where it happens. The bill will be judged not by its effectiveness in tackling every other aspect of the problem of prostitution but by its effectiveness in tackling street prostitution as a public nuisance that affects people who live in the neighbourhoods where it is carried on. Do you agree?

Councillor Thomas: I am not sure what point you are trying to make. If you are asking whether more effective policing of the current legislation would help and that extra legislation is therefore not required, I would say no. It is true that there could be police officers on every street corner in Leith 24 hours a day if we had the resources for that, but we do not. We need a combination of better enforcement of the current legislation and improved legislation. Ann Hamilton made the point that people in the affected areas know when a car is kerb crawling and somebody is looking for a prostitute, because they stop their car and do not ask for directions. Police officers know that too, so it should not be too difficult to accommodate that in a new legislative framework.

David McLetchie: But if there is no offence of loitering in a car, you are not accommodating it all, are you?

The Convener: You have pursued that point sufficiently, David. Tommy Sheridan is the last member yet to ask a question, and I will allow two other members brief supplementaries.

Tommy Sheridan (Glasgow) (Sol): I will try to address three areas as quickly and concisely as possible. First, Margo MacDonald asked Ann Hamilton whether figures from the past five years indicate a reduction in the prevalence of street prostitution. I hope that I do not misquote you, Ann, but you said that there are no such figures. Has the prevalence increased? Has the problem grown? I invite Councillor Thomas and Leslie Brown to answer the same question about their areas. Is what you are currently doing reducing street prostitution or is there no discernible reduction in the associated problems?

Ann Hamilton: There have not been seasonal differences exactly, but there are certainly patterns of change in each year. However, we have not seen any significant decrease in the number of women out on the streets.

I do not know whether this helps to answer David McLetchie's point, but we rigorously enforce the law among the women and we have not seen any decrease in numbers. That is because we do not have any powers to address the problem of demand, so the women are on the streets despite the highly visible police officers and rigorous enforcement.

There were about 800 or 900 women on the streets in 1998 and we are looking at about 1,200 now. That is partly because our figures are better, but we are not seeing a decrease and we will not see one unless we do something about the demand.

Councillor Thomas: It is difficult to know whether there has been a decrease in Edinburgh, because it depends on who you ask. The feeling

from the statutory organisations is that the numbers might be stable or reducing, but voluntary groups in the field would probably argue with that. We have seen in recent years a reduction in the nuisance problems, but whether that is as a result of there being fewer women on the streets or more effective policing of the area is difficult to know. With better-focused legislation we could do more than we are doing at the moment.

15:15

Leslie Brown: Like in Glasgow and Edinburgh, the extent of the problem in Aberdeen is roughly the same as it has been for the last few years, for which we have reasonably reliable figures. There are 150 to 200 women involved. We are aware of changes in the nature of street prostitution. David McLetchie mentioned mobile phones. There is a lot of evidence to suggest that a number of street prostitutes are using mobile phones to arrange pick-ups. That can mean nuisance being caused within a wider area. Although the women are on the streets to get business, they take people back to their own flats or flats that are provided for them, which causes a nuisance to other residents.

There is a concern that anything that stems from the bill could simply shift the nuisance, if we are not careful. We need to be aware of that. It is a complicated subject. David McLetchie is right to say that the bill essentially deals with one issue, but it is not a narrow issue, and we have to think about the potential knock-on effects.

Tommy Sheridan: I will explain why I asked that question of all three of you. I do not think that there is a disagreement among local authorities about the root causes of women being driven to prostitution—it relates to poverty and, primarily, drugs. The fact that each of you is saying that there has been either an increase or relative stability in the number of women involved is worrying from a societal point of view. Perhaps that means that we have not been tackling the root causes of poverty and drugs. The bill is not designed to do that, but it is designed to improve the legislation in this area and to reach an equalisation between the purchaser and seller of sex.

According to police evidence, currently it is not clear from a woman's record that she has been found guilty of soliciting. Do you agree that the title of the bill is unhelpful and should be changed, so as not to draw attention to the prostitution element on the employment record of a woman who has exited prostitution and is seeking other employment and so as not to cause problems with exit strategies?

Ann Hamilton: My understanding is that, at the moment, convictions for prostitution or soliciting

appear as offences under the Civic Government (Scotland) Act 1982. There is a whole issue around the rehabilitation of women and the fact that they must carry the stigma with them. The title of the bill and the fact that it is linked to fear, alarm and nuisance will exacerbate the concerns of employers when considering women. We have done some work on the issue with employers and within Glasgow City Council, focusing on the nature of the offence, explaining how women become involved in prostitution and emphasising that it is not a sexual offence but is to do with survival behaviour, poverty and so on. It is about changing people's attitudes, which is why it is so complicated. The issue is with us now, but it might be exacerbated by the public nuisance element of the bill.

Councillor Thomas: Given that one of the most effective routes out of prostitution involves helping women into training or finding them employment, anything that gets in the way of that is clearly not helpful.

Leslie Brown: I share Councillor Thomas's views but, in all honesty, I have not given any deep thought to the issue. I share Ann Hamilton's concerns about the impact that a conviction can have on the ability of women who have been prostitutes to get a job. If the bill serves only to exacerbate that problem, it would be sensible to try to find a way around it.

The Convener: I ask Tommy Sheridan to be brief in making his final point. We have two more panels to come.

Tommy Sheridan: My final point relates to Leslie Brown's answer. In all our evidence-taking sessions to date, we have tried to address not prostitution as a whole but a problem that relates to prostitution, which is the nuisance that kerb crawling causes to communities. Every witness has told us that the bill is not up to scratch. In dealing with the problem, it will be as effective as a chocolate teapot.

The Convener: Tommy, I think that we have covered kerb crawling. Do you have a new angle?

Tommy Sheridan: Do each of you or each of your local authorities intend to submit amendments to the bill to define kerb crawling or are you hoping that amendments will come from elsewhere? Are you going to be proactive in recommending amendments to the committee?

Ann Hamilton: Given our track record in Glasgow, it is likely that we will want to influence what happens. Obviously, we will let the bill go through stage 1, see the impact of the discussion and consider how to take things forward. We want to influence matters.

Councillor Thomas: We will give the issue serious thought, whether we do so individually, collectively through the Convention of Scottish Local Authorities or by way of the three cities joining forces to knock heads together.

Leslie Brown: Even before today, like Glasgow and Edinburgh, we had concerns about how the bill is going to pan out. We hoped that we would get some clarity on the matter, but we will have to take the issue back to our respective local authorities and do some further work together to see if we can be helpful.

The Convener: Two members have supplementary questions. I ask them to be concise. We have a lot of evidence to take today.

Margo MacDonald: Leslie Brown was the only witness to mention the guidance and yet, having been on the expert group, I know that the guidance is meant to dovetail with the proposed change in the law to make kerb crawling a public disorder offence.

I am most interested in hearing the City of Edinburgh Council's answer to my question. With regard to the services that the guidance says local authorities should provide—we have not even mentioned the duty of care that should be shown to prostitutes—does the City of Edinburgh Council foresee the delivery of those services in a way other than in the concentrated manner in which they were provided in the past?

For information, the stats that we heard earlier probably came from SCOT-PEP, as its figures back up what was said about there not being a big increase.

Councillor Thomas: We will look seriously at the matter. I mentioned the sex industry interagency strategy group, which brings together officials from the council and other agencies. The group will shortly report to the council on the way forward. I hope that some of those issues will be picked up in its report.

Margo MacDonald: That was all I wanted to know. We know about Glasgow and Aberdeen.

The Convener: I ask Frank McAveety to be concise.

Mr McAveety: We have had a discussion about enforcement, but even if enforcement has taken place under existing legislation, do you agree that a better form of enforcement—such as we have in the bill—will assist in tackling the issues that are of greatest concern to local residents? Police officers on the ground say that they do not have enough powers to tackle that aspect of the problem, never mind all the other aspects. Do you agree that that is the broad view that is held?

Councillor Thomas: Yes.

The Convener: I thank Ann Hamilton, Councillor Kingsley Thomas and Leslie Brown for giving us such helpful evidence.

I welcome our second panel of witnesses, which consists of police representatives. They are Chief Inspector Mark Cooper from Grampian police, Assistant Chief Constable Neil Richardson from Lothian and Borders police, Assistant Chief Constable John Neilson from Strathclyde police and Detective Superintendent James Cameron from Tayside police.

We are looking forward to hearing from you on concerns that we have heard about the enforceability of the proposed legislation. Your views will be of great value to the committee. You may make some introductory remarks. Do all four of you intend to do so, or have you agreed among yourselves that certain individuals will do so?

Assistant Chief Constable John Neilson (Strathclyde Police): If you do not mind, I will make the introductory remarks.

ACPOS welcomes the report of the expert group and the subsequent work. It is important to recognise, as we have always done, that prostitutes are victims. For the first time, we are starting to think about policing the demand. There have never been any powers for us to do that.

I have worked in the east end and the city centre of Glasgow throughout the years, have dealt with prostitution and have a good grasp of the community's needs. I have also been involved in the consultation on the bill. From the perspective of Strathclyde police, the bill has missed an opportunity to deal with two issues. If we are going to deal with demand, which appears to be the way that we are going, we need to deal with people in communities being accosted by people in motor vehicles and with prostitutes being uplifted by people in motor vehicles. The bill meets the needs of neither communities nor victims, that is, the prostitutes.

Michael McMahon: Before we talk about the issues that you have raised, I will ask about the bill's financial implications for the police, which the ACPOS submission mentions. The Scottish Executive believes that policing the new offence will cost the police forces £15,000 per annum. Do you find that credible or can you give us what you consider to be a more realistic assessment of the bill's financial implications?

Assistant Chief Constable Neilson: We cannot consider the financial implications in isolation. We have to consider the legislation that has been provided for us to deal with prostitution. In our submission, we outline the difficulties of prosecuting prostitutes and clients under the bill. I am sure that, if we get appropriate legislation to deal with demand, our street offences unit in

Glasgow will be happy. As far as I am aware, nobody on the demand side has ever been charged and, if we start to charge them under appropriate legislation, it will cost an awful lot more than the figure that is indicated in the financial memorandum.

15:30

Michael McMahon: Do the other witnesses agree?

Assistant Chief Constable Neil Richardson (Lothian and Borders Police): Most definitely. I would not like to put a figure on it, but the figures in the financial memorandum do not strike me as particularly realistic. That is the strong view of ACPOS.

The Convener: You might have heard Fergus Ewing earlier drawing attention to the fact that among the powers that are available to courts in England and Wales to deal with kerb crawling is the power to disqualify a driver from driving or to seize their motor vehicle. Are those appropriate punishments for a kerb-crawling offence?

Assistant Chief Constable Neilson: If we are realistic about dealing with demand, we need punishments that work. I have problems with the bill, but why not disqualify people from driving? We could try a different approach. We have to get rid of demand. Why are the same numbers of prostitutes still doing what they were doing in 1988? The answer is that they are victims. They are forced into it, and as long as there is demand, people will take advantage of it. The prostitutes do not want to be on the street; other people want them to be there. As long as there is demand, people will be forced into prostitution.

Ms Maureen Watt (North East Scotland) (SNP): There was a slight suggestion that because the managed zone in Aberdeen is away from residential areas it is out of sight and out of mind. Does Chief Inspector Cooper agree that that is not the case and that there are regular police patrols of the area? Will he tell me whether he gets a lot of complaints from people who live or work on the periphery and ask the police to deal with particular problems? Perhaps the police from other areas can tell us how many complaints they get from residents compared with how many incidents they deal with on their normal street patrols.

Chief Inspector Mark Cooper (Grampian Police): I assure you that the management zone and areas just outwith it where we also see street prostitution are heavily patrolled. For the past two years, we have run operation equation in that zone to provide a bit of protection, to manage the serious and violent crime that can occur there and

to prevent people who are inclined to seek female prostitutes from going into those areas.

What was the second part of your question?

Ms Watt: Do you get calls from the general public who live on the edge of the zone asking you to deal with nuisance?

Chief Inspector Cooper: Sporadically, as Councillor Thomas suggested about his area. Our zone operates predominantly from 5 pm onwards and a certain part of it from 9 pm onwards. However, because of the correlation with drug abuse, in particular the spiralling crack cocaine scene in Aberdeen, prostitutes do not always respect the operating times of the zone and from time to time we get complaints about women working outwith those times. We also get complaints from people in the private sector and from the few residents who live there about the remnants from the management zone, for example the nuisance of finding used condoms in their close.

Assistant Chief Constable Richardson: The question underlines one of the broader issues, which is the overemphasis on the police and their enforcement role. As has already been highlighted, this is a pretty complex social problem and, in truth, although the enforcement element is important, it is only one strand. There are also risks associated with enforcement. Whether or not we are talking about prostitution that takes place in a less visible area, enforcement carries with it the risk that it simply moves on the problem, makes it more difficult to manage and takes it further away from the helping agencies and partners with whom we work routinely to provide a meaningful service. The issue is not as simple as it might appear.

That is underlined further in the Edinburgh experience. The committee heard from the previous panel about the changing dynamics in Edinburgh. As the Leith area has been redeveloped, more residents have come into the area who have been less accepting of what has been in place in the area for a long time, which I suspect has driven a shift in policy. One of the reasons for welcoming the principles of the bill is that they represent a move towards achieving a sustainable remedy and away from the need for localities or cities to deal with the consequences that unfold.

We have concerns about too much emphasis being put on enforcement, which also raises public expectations that we will be unable to fulfil.

Assistant Chief Constable Neilson: Mr McAveety spoke about the Glasgow experience. The horror for people in Calton, particularly women, is that they are accosted every time they go out in the street, especially after 5 pm at night and during the winter. That happens throughout

Calton, right down to Glasgow green and the High Court building. Some people in the Calton area do not go out of their houses at night. Our difficulty is that people complain not about the prostitutes, but about the people who are looking for prostitutes.

In the city centre, we get complaints from people who work late at night, including single females who have to walk to the train station. The problem is particularly bad in one area where the prostitutes hang around because a number of fun pubs have opened there. It is difficult to detect who are the prostitutes and who are the pubs' patrons; there is no visible difference between them. When I showed the video to the fiscal and officials, they had difficulty in identifying who were the prostitutes and who were women just heading to the pub. The situation is not like it was in "Pretty Woman". The real difficulty is that we cannot easily distinguish the prostitutes; they are just normal girls who have been forced into prostitution.

When we opened our information resources department, which works a three-shift system, we had to consider the welfare of our staff who were leaving the office at 10 pm or 11 pm at night. We had to provide alternative transport because the fear of crime is so high in the area. The issue for women in those parts of the city is the fear of being accosted in the street by people in motor vehicles. We have plenty of complaints to support that.

Mr McAveety: Six years ago, I raised that issue in the Parliament and invited a number of residents from the Calton area to speak to the then Deputy Minister for Justice and senior civil servants. They told us that if the police enforced the existing breach of the peace law, it was more than sufficient to deal with the problems. Assistant Chief Constable Neilson has put a pretty positive argument for stronger powers. Were people utterly wrong in what they told us six years ago? Is what we are edging towards more likely to take us in the right direction?

Assistant Chief Constable Neilson: There are difficulties with the breach of the peace law. You will be aware that, generally speaking, the women who walk the streets in Glasgow green are on their own, and the person in the vehicle is also usually on their own. The area is not covered by closed-circuit television, which means that there is usually insufficient evidence to accuse the person in the vehicle of causing a breach of the peace by accosting the woman in the street. If uniformed police officers are out on the street, the person in the car will not behave in that way. That is the perennial problem. We have no legislation under which we can deal with people who persistently drive around an area and are not on legitimate business.

Mr McAveety: So the bill needs to include something to address that. At present, your submission is that the bill's provisions are insufficient. You have given two or three examples of language that needs to be made more precise and have also said that definitions need to be more accurate.

I return to a question that I have asked before, on which I seek your help. When you come to present a charge to the procurator fiscal and they say, "I cannot deal with that," how do you solve the issue? How do we make the language in the bill stronger and better so that it is right for the men and women police officers who need to enforce the law? I know that officers in my area are frustrated because they cannot tackle what they know is an important issue.

Assistant Chief Constable Neilson: I am glad that you did not ask me an easy question. The bill must be framed in a workable way. The reason why I showed a video to people from the Crown Office and Procurator Fiscal Service and the people who produced the bill was to show them that those who are involved do not negotiate contracts. A driver in a car goes down a street and flashes the car's lights, then a prostitute gets into the car. In those circumstances, how would the bill allow us to charge the client or the prostitute?

The Crown Office and Procurator Fiscal Service's opinion is that we would have to hear such a transaction. On a tape, such transactions take five to 10 seconds—they happen quickly. A client will walk past a prostitute on the street and we will not even see them speaking. The next minute, the prostitute will meet the client in a lane. Therefore, under the bill, how would we prove that an offence had occurred?

Loitering is another issue. Two thirds of the transactions that take place in Glasgow occur in motor vehicles. If a person who is in a motor vehicle cannot be loitering, what will happen to two thirds of transactions? Nobody will be charged and nobody will be rehabilitated. The tool will be ineffective, because a person who is in a motor vehicle cannot be loitering, although a person can loiter on a bus. I am not being critical, but the transactions do not take place in taxis or buses—the majority take place in cars.

Something needs to be built into the bill to prevent people from stopping people in the street. If the bill specified three instances, as the English legislation does, we could use CCTV and automatic number plate recognition that could be linked to CCTV. Those are effective measures that we do not use now and which we could at least try. My opinion is that the bill gives us no powers and will frustrate the powers that we have.

Mike Rumbles: My question is for Mark Cooper and is the same as the question I asked Aberdeen City Council. The council said:

"In January 2001, Grampian Police established a prostitution management zone in"

Aberdeen, in which prostitutes

"are not subject to arrest for soliciting".

The bill's purpose is to achieve equality between the seller and the purchaser of the service. My question is simple. If at the moment you do not seek to prosecute people for selling, you ain't going to use the powers in the bill to prosecute people for buying, are you?

Chief Inspector Cooper: We prosecute prostitutes who operate outwith the zone.

Mike Rumbles: What about those who operate in the zone?

Chief Inspector Cooper: In the zone, we will have a difficulty. I do not think that Grampian police introduced the management zone—

Mike Rumbles: That is what Aberdeen City Council said.

Chief Inspector Cooper: I think that the question whether to operate a management zone is devolved to local authorities. The council put in place the zone in partnership with Grampian police. If the bill is passed, it will be incumbent on us to get round the table quickly to review the zone's purpose.

We should not forget why the zone was established back in 2001. As we have heard, prostitutes at all levels are very vulnerable. They become prostitutes because it is a means to an end. Some people are forced into prostitution. We have not spoken about the support that is in place in the management zone. The drop-in centre gives prostitutes access to services to which they might not otherwise have access.

Mike Rumbles: I will pursue the question. The police have decided not to enforce the current law in an area. It is not the local authority's job to decide which laws of the land are not to be enforced. As an operational matter, the police have established that they will not enforce a law. Have you decided not to enforce any other laws in any area?

Chief Inspector Cooper: Not as far as I am aware. That is a matter for police forces' discretion.

Mike Rumbles: Why is this subject different?

Chief Inspector Cooper: It is different because of the partnership approach and because of the revolving-door effect, about which we heard from previous witnesses. What good does it do

prostitutes to charge them, arrest them and bring them before the courts, where they simply get fined again? That just gives them a problem with their finances.

15:45

Mike Rumbles: I hope that you appreciate that I am pursuing this point not because we are examining the whole issue of prostitution. We are not doing that; the committee's job is simply to consider the Executive's bill. The Executive has told us that the bill's purpose is to ensure equality of treatment in order to take away the demand. My question is focused on the police service. If the police service does not enforce the current law in a particular area, what is the point of us introducing that equality to the legislation?

Chief Inspector Cooper: As I said at the outset, it would be incumbent on Grampian police, with the partner agencies, to review the existing management zone.

Mike Rumbles: I found the evidence from John Neilson about how to prosecute under the proposed new legislation very effective. If we assume that if the bill is brought into force it will be effective across the country, without exception, will it be practical? Will it achieve the object of the exercise as I have described it, which is to equalise the position of the seller and purchaser of this activity in law? Will prosecutions be effective if we accept the bill as drafted?

Chief Inspector Cooper: I accept the observations that you have made. Has the management zone in Aberdeen reduced crime within that zone? No, it has not—or there is no evidence to suggest that it has. We have evidence of prostitutes coming to Aberdeen from other parts of Scotland and, indeed, from elsewhere in the United Kingdom to take advantage of the services there and of the fact that they will not be arrested. There is also the displacement of prostitution outwith the management zone. The prostitutes operate there for a number of different reasons. Together with the sex industry forum, Grampian police will be examining the management zone as a matter of urgency.

Fergus Ewing: Is it possible that there could be buying and selling of prostitution services without committing an offence of causing nuisance?

Assistant Chief Constable Neilson: We raise that issue in our written response. How do we prove intent? What nuisance are the people who are involved creating, other than for the two police officers who see what is happening, which is two people speaking on the street and a woman going into a man's car? To whom are they causing annoyance? We had difficulty understanding that. In the Calton area of Glasgow, the standing

complaint from residents, which can be supported, is that they have a problem with being accosted on the street and with the prostitutes being there. In the city centre, it is an entirely different kettle of fish. Who is making complaints after 5 o'clock in the evening? Who is being caused annoyance?

There are many ifs and buts, but the legislation lies totally with the perception of police officers. It is difficult enough to get evidence through the court when it comes solely from police officers. As the bill stands, it is about individual officers' perceptions.

Fergus Ewing: I accept that the evidential difficulties are considerable. Where the act of soliciting is done in the Calton area, where there are residents around, there is plainly a nuisance. The point that I wanted to move towards is this: if the act of soliciting takes place in an area where there are no witnesses, for example in an industrial estate, where there is no one around in the evening, it seems quite possible that the eventual act will not criminalise the behaviour. There would be no nuisance, no members of the public and probably no police; therefore, there would be no crime.

The effect of that is that punters will be driven into areas where there are no witnesses—dark, dangerous places. Perversely, the effect might be to place the women at even more risk of violence. The punters will know that it is not worth taking the risk of picking up a prostitute in a residential area because, under the legislation, they can be lifted for the crime. They will also know that, unwitnessed, in some secret, dark place, they will not be committing a crime. Does that scenario have some justification?

Assistant Chief Constable Neilson: That scenario occurs at the moment. That is exactly what someone does after they have picked up a woman; they go to places like that. The legislation is not in place yet to prevent that from happening. Many of the provisions in the bill would have to be tested in court. We would have to test our perception of soliciting and loitering and what constitutes a nuisance. The first couple of years will be testing for the Procurator Fiscal Service and the police. If the bill goes through with those provisions intact, the only way in which the position will be clarified is through stated cases and legal challenge in the courts.

Fergus Ewing: I appreciate that precise wording is key; one word can make all the difference.

I turn to the approach that is taken in England and Wales. As the policy memorandum sets out,

"Section 1 of the Sexual Offences Act 1985 provides that it is an offence for a person to solicit from a motor vehicle persistently, or in such manner as to cause annoyance to

the person being solicited or nuisance to the neighbourhood."

I understand that that provision was designed to criminalise both the punter and the voyeur. The latter category of offender may not solicit but may cause a nuisance. I will focus on the word "persistently". Do you agree that if it is wrong for a person to solicit from a motor vehicle—to kerb crawl—it is wrong to do it once? Surely the use of the word "persistently" suggests that their action becomes an offence only if they kerb crawl more than once—indeed, perhaps more than twice or three times. The meaning of the word "persistently" invokes an action that is repeated several times.

Do you agree that when we are trying to get the wording right at stage 2, we should consider the English approach? Is there merit in suggesting to the minister that we scrap the inclusion in the bill of the word "persistently" on the basis that the evidence that we have taken shows that communities want kerb crawling to be an offence full stop. Surely kerb crawling is kerb crawling even if it happens only once.

Assistant Chief Constable Neilson: I am quite comfortable with the use of the word "persistently". Already in Edinburgh and Glasgow a prostitute cannot be convicted unless two official warnings have been issued. The third warning is issued just before a court appearance. A series of warnings is required before the woman is convicted, as it indicates the pattern of events that shows that she is a known prostitute. It also allows us to divert people away from prostitution and into other activities at an early stage and without criminalising the individual.

People travelling through the area that prostitutes use in Glasgow who are stopped by officers say things such as, "I'm going to pick up my wife at the local pub," or "I was looking for the M8 on-ramp and took a wrong turning"—the on-ramp is right at the end of the area and the man can quite rightly say that, because he missed the turning, he had to go through the whole area again. However, if we have to provide evidence of persistent behaviour, the man can get away with that excuse only once. The use of the word "persistently" is positive. When we take someone to court, we need to be able to prove that persistent behaviour was involved. Someone cannot get lost every night.

Fergus Ewing: Yes, but surely the other interpretation is that, if you have to pursue a charge on the basis of a persistent course of behaviour, the prosecution will fail unless there has been repetition of the behaviour. Single women such as Ms McCarey, who gave evidence last week, would become intimidated if someone did it even once. Surely women like her are

entitled to be concerned about such behaviour and to be protected by the criminal law against that experience, even if it happens only once. Is not the question of proving it a separate, evidential question?

Assistant Chief Constable Neilson: It is not separate. If Ms McCarey gets stopped once by a person driving a car and there is no corroboration of the incident, that is it. There is nothing that anyone can do about it because, if there is no corroboration, we cannot take someone to court. We can give the man a warning, but he will say either that he did not do it or that he was lost. If a series of events has taken place and it is possible to document it, we can prove that persistent behaviour is involved. I referred earlier to the three significant events that allow us to build up the evidence that is required.

I am comfortable with the use of the word. If we are going to do this, we need to do it right. If we take cases to court, we need to get prosecutions. We cannot take cases to court only to have them written off. If we are to support the communities that are making these complaints, people need to see that we are achieving successful prosecutions.

Fergus Ewing: I hear what you are saying, but I am not convinced by it. If an offence happens once, it is wrong—it is simply more difficult to prove that it happened because a person could argue that they were doing what they were doing for other purposes.

I will move on. You commented on the convener's questioning following Ann Hamilton's evidence on Glasgow City Council welcoming the powers to disqualify kerb-crawlers from having driving licences. I think that she also said that powers exist in England that allow cars to be confiscated in some circumstances. Should the courts be able to impose such a remedy in the appropriate circumstances?

Assistant Chief Constable Neilson: If we are linking the proposals in the bill to other antisocial behaviour measures, we should remember that such punishments exist under current antisocial behaviour legislation. We can seize people's vehicles and get people disqualified from driving. Such a robust approach would certainly prevent repeat offending.

Fergus Ewing: Finally, it has been suggested that because the bill deals primarily with street prostitution, it will not really prevent prostitutes' services from being arranged by mobile phone. Do you agree that if an offence does not directly cause nuisance but simply involves a punter purchasing sex, it would be perfectly open to investigating officers and the police to obtain the punter's mobile phone records as evidence of

contact with the prostitute to prove that a transaction had been arranged by mobile phone? Do you agree that mobile phone records constitute perfectly acceptable evidence in other forms of criminal cases and that using the approach that I have described would allow us to start to stamp out—or at least reduce—prostitution in the street or anywhere else and thereby reduce the degradation of women and the violence towards them that prostitution causes?

Assistant Chief Constable Neilson: That takes us back to Mr McMahon's question. How much would such an approach cost and who will pay? We are talking about very expensive evidential tools.

Secondly, in such circumstances, there would be no evidence of corroboration other than evidence that a phone call had taken place between a male and a female. There would be no transcript of what had been said. Currently, people in the street can be watched on video. A person can phone a prostitute at the end of the street and disappear into a car or a lane as a result of a phone call. Is it in the public interest to spend all the money that we would be talking about to try to prosecute one person, who might never appear in court, over a phone call? That is a question for the Executive rather than me to answer, but the cost of taking such a course of action would be enormous. The issue also brings in the Regulation of Investigatory Powers (Scotland) Act 2000.

Fergus Ewing: I will recast my question. I did not suggest that evidence that a phone call had been made would constitute evidence that a crime had been committed—that is plainly not the case. Perhaps I did not make myself absolutely clear. I was suggesting that if other evidence existed—whether that was evidence from a closed-circuit television camera, oral evidence from a witness or evidence from a police officer—of sex having been purchased and of the punter and the prostitute having been together, phone records could be a useful means of corroborating the primary evidence. I was not suggesting that mobile phone records by themselves could ever constitute sufficient evidence that a crime had been committed and I apologise if I gave you the impression that I was saying that. However, it would be possible in theory and in practice to use such evidence as corroboratory evidence in circumstances in which other evidence is available to investigating officers.

Assistant Chief Constable Neilson: We would have real difficulties with the RIP(S)A commissioners in utilising such means of evidence gathering. Getting access to people's phone records is difficult enough in investigations into serious crimes, and even more difficult when the investigation involves a really serious crime and

life is at risk. I do not think that the RIP(S)A commissioners would agree to access becoming routine, although I am not an expert on the act.

16:00

Fergus Ewing: I appreciate that access may be difficult, but I would like to see it become easier to help you in your efforts to tackle crime. I was not criticising the police in any way but simply suggesting that, as a citizen, I for one would like to see your job and your obtaining access to people's phone records made much easier for all types of crime, including what I would regard as a serious crime—buying sex, with the degradation of women that that entails.

Detective Superintendent James Cameron (Tayside Police): I want to make a follow-on point. Such access would be cost prohibitive and would not add any value to most investigations. The identification of two people together far outweighs the possibility that two individuals used a telephone to talk to each other.

Paul Martin: We are trying to deal with the most difficult areas of the bill. Am I right in saying that the witnesses have a difficulty with one key aspect, which is that the police would be required to overhear the discussion between the purchaser and seller? Is there an analogy with other crimes—racially aggravated crimes, for example—for which such evidence is required?

Assistant Chief Constable Neilson: The bill says that anybody who solicits or tries to secure the services of a prostitute commits an offence, but how do we prove that? If someone drives a car to an area and flashes their lights and a woman gets in, how do we prove that they have breached the law? It is impossible. On persistency, if somebody did it three nights in a row, they would breach a piece of legislation that can be enforced.

Paul Martin: Would the first situation come under circumstantial evidence? If we deleted the section that refers to officers having to overhear the transaction, would that help?

Assistant Chief Constable Neilson: To be fair, the idea that we had to hear the transaction came from the Procurator Fiscal Service at our last meeting. It would be impossible for us to enforce the law as the Scottish Executive wants if the Crown Office and Procurator Fiscal Service says that we have to overhear the conversation. That is not going to happen.

Assistant Chief Constable Richardson: A further concern for ACPOS is the risk that if the legislation is passed in a shape not too dissimilar from its present shape, enforcement will ultimately be a matter for local negotiation between the PF and police in Edinburgh, Glasgow and elsewhere.

The one thing we know about the prostitution culture is that it is extremely transferable. If there is a spate of attacks against women in Glasgow, the number of prostitutes in Edinburgh and elsewhere in Scotland increases overnight.

For me, that underlines the need to have a consistent approach across the country, and that will come from workable and effective legislation. There is an issue of proportionality in proving an offence, as prostitution is not the only issue that our communities are concerned about. We have to direct our scarce resources into a number of different areas, and if disproportionate resourcing is required to obtain evidence to pursue prosecution, the reality is that it will be extremely difficult to do and will not happen that often. That is the basis of the ACPOS concern.

David McLetchie: I wanted to ask Mr Neilson about something that arose in the evidence that was given by Ann Hamilton from Glasgow City Council on the number of prosecutions under the existing law. I was particularly interested to note—if I noted her numbers correctly—that the number of prosecutions in 2003-04 was 393. In 2004-05, it doubled to 786. In the most recent year for which you have statistics, the number fell again to 246. There was a substantial spike, as if there was some operational reason why, all of a sudden, the number of people prosecuted doubled in 2004-05 from the figure in the previous year, and then fell again significantly in the following year. Was there an operational reason, and could you describe the operation that gave rise to that substantial number of prosecutions?

Assistant Chief Constable Neilson: The reasons are easy to describe. There were operations in two areas—in the city centre and in the east end of Glasgow, where Mr McAveety was involved. The operation in the Calton area was aimed at reassuring the public, and it reduced the fear of crime in that area. More importantly, it related to the Emma Caldwell murder: the number of police officers who were involved in intelligence gathering and prosecuting was increased tenfold, which coincides with the spike in the statistics.

David McLetchie: So, in that instance, there was a specific operation to target street prostitution, which came about as the collateral consequence of another operation relating to a murder. However, the number of prosecutions increased because of the number of officers who were working in those areas. What is the operational difference between the number of officers who were busy going around arresting people, leading to prosecutions in 2004-05, and the number of officers who do that in the normal situation, if I can call it that, that applied again in 2005-06?

Assistant Chief Constable Neilson: I do not have those figures; any answer I gave you would be anecdotal. There has always been a street offences unit of 10 officers who work on prostitution. They do not work only on enforcement—they also do diversionary referrals, drug referrals and referrals to Routes Out and other support teams. Intelligence is gathered and there are good reasons for that, but that unit is seen as a positive and proactive approach to prostitution in the area, and the numbers never change too much. Only if we need to increase the numbers as a result of a serious crime do we put in more officers down there.

David McLetchie: I am interested in the video test that you did in conjunction with the Procurator Fiscal Service, as described in your written evidence, which seemed to suggest that it would be difficult, under the bill, to prosecute a significant number of people. In making that assessment of the impact of the bill, based on the video, what did the Procurator Fiscal Service say about that same evidence vis-à-vis the current law?

Assistant Chief Constable Neilson: We use evidence from closed-circuit television and officers on the ground to deal with such offences under the Civic Government (Scotland) Act 1982, which is also supported by common law cautions and interviews under caution. Prosecutions have been done that way since 1982, when that act came into force. There is a process for that.

We took a Monday night snapshot—Monday night is a quiet night in Glasgow city centre—just to show the procurator fiscal and the people from the Scottish Executive what the situation is like. We said, “Here’s the reality of prostitution in Glasgow city centre. We’ve told you our reservations about the new bill and what we think about it. Look at the video and tell us how we could use the new law to prosecute anybody in it.” The response was that, despite the 23 transactions that were captured on the video, nobody could be charged.

David McLetchie: Could some of the transactions that were filmed and shown be prosecuted under the current law?

Assistant Chief Constable Neilson: Yes, particularly in respect of the prostitutes. There is no law at present that deals with clients.

David McLetchie: That is another issue that is related to whether the law deals with the nuisance or whether it is about an equalities agenda. In terms of dealing with nuisance, the current law could allow you to prosecute more people on the basis of that test than could the proposed new law. Is that right?

Assistant Chief Constable Neilson: Under the current law, we can prosecute only prostitutes.

The bill is intended to introduce a balance and to reduce demand. The current law does not allow us to reduce demand, but we feel that the law that is proposed in the bill will not allow us to reduce demand either.

David McLetchie: I presume that if the evidence that was shown in the video was not good enough to prosecute the purchaser, it was not good enough to prosecute the seller, either.

Assistant Chief Constable Neilson: No—that is different. If the person was a known prostitute, we could take further action under the 1982 act.

David McLetchie: That may be the case under current law, but it would not be the case under the law that is proposed in the bill. On the basis of the video evidence that was presented to the Scottish Executive, are you saying that sellers—prostitutes—could, in the opinion of the police and the procurator fiscal, be prosecuted under the present law but not if the law was amended as proposed in the bill?

Assistant Chief Constable Neilson: Yes.

David McLetchie: That seems to be an extraordinary state of affairs.

Margo MacDonald: I have specific questions, but I will first pick up where David McLetchie left off. I do not expect you to comment on a matter of policy but, regardless of whether people think that the bill would create “an extraordinary state of affairs”, the intention behind it was that prostitutes would not be committing an offence if they stood in a discreet or relevant place without offending, alarming or causing nuisance to a third party. I just want to put the matter in context.

First, if the process was triggered by a complaint from a third party, would that make it easier for the police to enforce the proposed new law?

Assistant Chief Constable Neilson: It would make it easier from the point of view that the issue would not depend on the police officer’s perception that an offence had taken place, because there would be supporting evidence. In my experience, particularly in the Calton area, it is difficult for people to come forward to provide such evidence. They might give the police officer evidence on a one-to-one basis, but complaints tend to be by anonymous letter or anonymous telephone call. People in the area would not stand up in court to support a complaint.

Margo MacDonald: I take it that the same does not necessarily apply in Edinburgh and Aberdeen.

Assistant Chief Constable Richardson: I think that the broad principles are correct, but for me the issue is about the gap between perception and reality. People who live in an area that is affected by prostitution become sensitised to what is

happening around them. People can become more irritated by activities that they perceive to be linked to prostitution in the making.

The reality of what happens has changed since I last worked in the street and had to deal with prostitution, when the mode of dress, conduct and so forth of prostitutes were fairly self-evident. However, that has changed dramatically. When I looked at the video to which John Neilson referred, I found it very difficult indeed to say that anything caused me alarm or annoyance, although I can understand why the people who live in a neighbourhood where cars routinely drive by and stop briefly to let someone jump in will associate that activity with the on-going problem of prostitution. There is a perception and a reality, but how we take a matter to court and prove that there was a nuisance is another thing altogether.

Margo MacDonald: You are saying that it would make it easier to prove that an offence had taken place and to enforce the provisions in the bill if there was a complaint from a third person. I wanted to get that straight.

My second question is on a matter of detail. I accept all the criticisms about kerb crawling and so on, but I want to ask about people who are not engaged in seeking sexual services but are cruising just for the sheer hell of being there. Would they also be considered to be committing an offence under the bill?

Assistant Chief Constable Neilson: That comes back to the point that Mr Ewing made. People are allowed a one-off incident, but once there has been a series of events we can put them off because they would need to justify being in the area for three nights in a row. That would legitimise, I hope, any action that we took after that.

Margo MacDonald: What if the person was only looking? Could that person be prosecuted?

Assistant Chief Constable Neilson: That would still be an offence, especially in areas where there had been complaints.

Margo MacDonald: What would happen if no complaint had been made? The point is that the bill will require police officers to determine whether the activity would be likely to cause offence, alarm and so on.

Assistant Chief Constable Neilson: That comes back to the issue of perceptions. I should say that, when we raised that issue with the procurator fiscal, the fiscal did not think that driving round three times was sufficient to meet the demands of the bill.

16:15

Margo MacDonald: My next question arises from something that you said about the film, in which it was evident that everything took place very quickly—a car flashed its lights, drew up, a woman got in and the car went away. Would you agree that the experience of the management zone in Aberdeen and the zone that used to exist in Edinburgh, where it was accepted that a man who was there in a car was there for one purpose alone, shows that in such zones the women have better protection in that they have more time to find out who is in the car?

Assistant Chief Constable Neilson: We have never worked a management zone, so that is a question for Grampian police.

Chief Inspector Cooper: That is difficult to answer. A positive aspect of the management zone is that it gives the women the opportunity to engage in conversation with the gentlemen. From intelligence, we are aware that known sex offenders have admitted to their monitoring officers that they are visiting the zone, which is cause for concern. They would go wherever the street prostitution was.

Margo MacDonald: You said that in the Glasgow unit the same officers are responsible for enforcement and gathering intelligence. If they are nicking people, it cannot be easy to obtain intelligence.

Assistant Chief Constable Neilson: No—it is one of the hardest jobs in the city centre policing division. The officers are hand picked and are specially trained in joint-working practices and communication skills. Intelligence gathering is only one part of their role; the other part is to divert the women from prostitution and to provide them with support. However, when those women break the law and people make complaints about them, they have to be prosecuted.

Margo MacDonald: Would it be feasible to provide a rehabilitation programme for people who are convicted or cautioned for kerb crawling and would it produce the results that we want?

Assistant Chief Constable Neilson: There have been such programmes down south, but I do not know what results they have had. I would be happy to try anything that would reduce demand. We could try rehabilitation: if it does not work, it does not work.

Margo MacDonald: Are you aware of the guidance notes that were sent to local authorities and their partner agencies? Have you examined them?

Assistant Chief Constable Neilson: In what regard?

Margo MacDonald: Have you considered whether they fit with the notion of a complaint-led offence, which was the intention?

Assistant Chief Constable Neilson: No. I am not aware of that.

The Convener: That brings us to the end of the evidence taking. I thank our four witnesses from the police. The session has been useful and has given members a great deal to think about before we question the minister and move into the amendment phase of the bill's consideration—assuming that we progress to that phase.

Assistant Chief Constable Neilson: If it would be helpful, I can leave the video that has been mentioned, which is five minutes long, for the committee to watch. It would need to be viewed in private, though.

The Convener: Yes, that would be helpful.

Assistant Chief Constable Neilson: It would certainly need to be viewed in private.

The Convener: We will take your guidance on that.

Margo MacDonald: We did not ask Tayside police a single question, even though it has the issue sewn up.

Detective Superintendent Cameron: I am quite relieved about that.

The Convener: I welcome to the meeting Dr Teela Sanders, who is a senior lecturer in the sociology of crime and deviance at the University of Leeds. Dr Marina Barnard, who was also due to give evidence this afternoon, is unable to attend because of unforeseen circumstances.

I give you the opportunity to make some introductory remarks on the bill, after which we will move to questions from members.

Dr Teela Sanders (University of Leeds): Thank you for the invitation to give evidence. I have submitted written evidence that details recent research on street prostitution and policing. I feel that the bill does not reflect current research in three respects, the first of which is the way in which the sex industry, particularly street prostitution, can change and adapt to the law, especially with regard to displacement. Secondly, there has been an overall increase, both globally and in the United Kingdom, in demand for commercial sexual services; indeed, recent statistics indicate that demand has doubled, which raises the question of the motivation for buying sex. Thirdly, the bill does not really take into account the dangers that women face as a result of increased policing or further criminalisation, even though the expert group highlighted that issue.

Mike Rumbles: The final conclusion of your written submission, which I read with great interest, says:

"The criminalisation of both purchasers and sellers of sex on the street increases the stigma attached to prostitution and does not meet the objective that any change to the law 'should seek to reduce the stigma which attaches disproportionately to the person soliciting'."

I do not quite understand that. After all, the bill is trying to address the issue of disproportion by seeking to equalise the stigma that attaches both to those who buy and those who sell sex.

Dr Sanders: Irrespective of what the law says, the question is how it will be enforced in practice. We have heard a lot about that today. The fact is that there are always more women selling sex than there are men buying it. There is no specific evidence that men consistently buy sex on the street. Unlike the women, who might well sell sex on the street every day, the men who are arrested for demand or kerb-crawling offences do not buy sex, say, every week. Although, the law might well be equal in theory, the equality of enforcement is a different matter.

Mike Rumbles: Thank you. That has cleared that up.

Fergus Ewing: I do not know whether you heard the evidence from Ann Hamilton, who was speaking on behalf of Glasgow City Council. She alluded to the effectiveness of a programme in Hampshire, as a result of which, of the 383 kerb-crawlers who had been arrested and the 82 who went to court, only a handful—four, I believe—reoffended. I wonder whether you could comment on that, as it appears to contradict the conclusion in the fifth section of your submission, on "The ineffectiveness of Kerbcrawler Rehabilitation Programmes".

Dr Sanders: My evidence brings together evaluations of kerb-crawler rehabilitation programmes in the United States and North America, where most of them are. Only recently have two or three such programmes—in Hull, Hampshire and Nottingham—been introduced in Britain.

All the evaluation studies of programmes in the United States highlight that effectiveness cannot be measured by the rate of reoffending. A figure such as four reoffenders out of 390 individuals does not have any weight and does not mean much, because of the displacement issues. I documented all the different factors in my written evidence, such as the fact that men may not be caught or they may go to different areas. On the Hampshire project specifically, no systematic evaluation has been carried out and, although the project is mentioned in a Home Office document, it

has no weight, as it has not been evaluated effectively.

Fergus Ewing: Plainly, you have studied the programme but, on the face of it, only four men reoffended out of the 82 who were prosecuted and the 382 who were arrested. Even if we accept that some of those men continued to buy sex and were not caught, on the face of it, the study contradicts clearly your conclusions that rehabilitation programmes are ineffective. I am not sure why you simply dismiss the study out of hand.

Dr Sanders: The evaluation is not only mine. Evaluations have been done of similar programmes, mainly in America. No programme anywhere in the world has ever existed for more than two years, because they have not been seen to be effective. The results of the measurement or evaluation of the effectiveness of such programmes is only one criticism of them. I documented several other criticisms in my written evidence that show why such court diversion programmes are not seen to be successful. The criticisms are about the resource intensiveness, the bias of the programmes and the fact that legal theory and due process are not adhered to.

Fergus Ewing: Is it your view that kerb crawling should not be an offence?

Dr Sanders: My view is not particularly relevant. I am here to present research from empirical studies on prostitution throughout the world. The point is that there is no evidence from any of the countries that have kerb-crawling legislation that it has affected the levels of demand or reduced street prostitution in any way, shape or form.

Ms Watt: Following on from that, from your experience and studies, is there any place internationally where buying sex is an offence and where prostitution has reduced as a result?

Dr Sanders: The most recent example of that is Sweden, on which the committee has no doubt heard evidence. After the law was introduced, there was an initial lull for two years, but that seems to have changed and people are returning to the streets. The law there significantly changed markets elsewhere—there has been a huge rise in internet markets and men are beginning to go to different countries or places to buy sex. So, although the law had an initial impact on street prostitution, there seems to have been no long-term effect on demand. One recent figure is that 13 per cent of men in Sweden buy sex.

Ms Watt: You paint a bleak picture. Are you saying that there is no way in which we can affect men's sex-buying behaviour?

Dr Sanders: I am not saying that there is no way we can do that. However, ultimately, the strong laws on kerb crawling in the UK—which I

know most about—do not seem to have affected demand because of the nature of buying sex and the prostitution market. Even if individuals are arrested, named and shamed or given another punishment, other people always come along to take their place.

The Convener: Earlier, Mr Ewing asked the witnesses from the police and local authorities about the alternative disposals that are available to the courts in England, such as seizure of vehicles and disqualification from driving. In your studies, have you found that those disposals have been used widely?

Dr Sanders: They certainly have not been used widely. The removal of driving licences and naming and shaming, which brings in the media and which the Home Office sees as being an effective tool, have not been much used by magistrates because they are seen to have detrimental effects on partners and families. The majority of people who buy sex are in relationships and have families, so naming and shaming them or taking away their driving licences, as well as punishing the individual, can have significant ramifications for families.

16:30

The Convener: It seems to me that, if someone was aware that a court might use such a disposal, that might influence their behaviour, especially if they were at risk of losing their driving licence, which could have an impact on their employment, or if their car—which is a valuable asset—was going to be seized.

Dr Sanders: It might be because such powers have not been used prolifically by the courts that there is no deterrent effect. Also, it might be because there is a constant influx of people who are buying street prostitution. No more than 1,000 people have ever been arrested for kerb crawling in England and Wales. Even if individuals are taken out of the equation or deterred, there will still be other people who will be motivated to buy sex.

David McLetchie: I heard you say in reply to an earlier question that you did not think that kerb-crawling legislation had reduced the incidence of street prostitution. I have read your written submission and it seems to me that, although such legislation has not reduced prostitution, it has certainly reduced street prostitution. Section 4 of your submission is headed "Policing men who 'kerb crawl'". In your points under that you talk about "tactical displacement", which is described as men making

"regular arrangements or visiting women at indoor locations such as crack houses or homes."

Under point 4(4), "Change in target", you say that

"instead of buying sex from the street based market men will venture into new markets to act out the same behavioural patterns."

That suggests that, although you may be correct in saying that kerb-crawling legislation does not reduce the incidence of prostitution overall, it certainly reduces street prostitution of the type that the bill is concerned with. Is that correct?

Dr Sanders: No, I do not think that it is. There are four methods of displacement. It is key that the bill considers temporal and spatial displacement—displacement in time and geography. There are different methods and tactics that we can use—we have heard about the use of mobile phones—and there are different markets that the bill is not concerned with, into which people can move.

Temporal displacement is when men seek sex at different times to avoid police detection. Birmingham, where I studied, has had intense policing by both community police officers and the state police. Essentially, that has just changed the nature of the beast. It has become a 24-hour problem dispersed across different streets, and men have adapted to that. It is significant that certain streets and areas gain a reputation that lasts for years and sometimes for centuries. Having studied the websites that men use to locate sex, I know that those reputations go before what is happening at the current time and place. People know where it is traditional to be able to buy sex in Edinburgh, Birmingham and other places in Britain. Those areas hold a certain relevance in being known as red-light districts.

Temporal and spatial displacement may happen as a result of kerb-crawling laws. Whenever there have been crackdowns in areas—where there have been kerb-crawler programmes, and so on—the problem has, essentially, been spread further and wider, causing more distress to communities.

David McLetchie: So, what you call tactical displacement and change in target, in points 4(3) and 4(4) of your written submission, are not significant in numbers terms.

Dr Sanders: No; they may still happen—

David McLetchie: I am trying to get some sense of the balance. I understand from what you say about tactical displacement, as described in point 4(3), and change in target, as described in point 4(4), that in traditional street prostitution—in which the prostitutes solicit on the street and the transaction is made on the street in a defined area—those strategies change the location of the transaction.

Dr Sanders: The location may change. Yes.

David McLetchie: To what extent is that a result

of kerb-crawling laws rather than what you call temporal and spatial displacement?

Dr Sanders: I apologise if I am repeating myself or if I have misheard you, but those kinds of displacement are all effects of kerb-crawling laws.

David McLetchie: Yes, but in the narrow context of reducing traditional—if one might call it that—street prostitution, according to points 4(3) and 4(4) in your written statement, the kerb-crawling laws have the effect of reducing that traditional street prostitution. Is that not correct?

Dr Sanders: They may have that effect.

David McLetchie: Okay. Further on in the same section, in talking about dispersal and spatial displacement, you refer to

"the creation of a more complex, invisible and underground sex industry that avoids any contact with official agencies."

This may be an unfair characterisation of your argument, and you may want to comment on it, but that suggests to me that transactions that are arranged in the street—that is, street prostitution—is almost a preferable activity to prostitution that is carried out in other locations. Is that fair?

Dr Sanders: Can you repeat the question? I did not quite understand.

David McLetchie: You talk about spatial displacement, changes in markets and tactical displacement. You say that all those elements together result in

"the creation of a more complex, invisible and underground sex industry that avoids any contact with official agencies."

The implication is that highly visible street prostitution, which is overground and facilitates contact with official agencies, is in some respects almost preferable to prostitution that is carried out in other environments.

Dr Sanders: That is so for certain types of men, in terms of their motivations for buying sex on the streets. Some men will always go to the street because of their desires related to street prostitution.

David McLetchie: Yes, but I am talking about it from the standpoint of the women—the prostitutes themselves.

Dr Sanders: The women may decide to work in different, not particularly formalised, indoor markets. They may prefer to make negotiations with clients at indoor locations to avoid detection.

David McLetchie: But from the standpoint of a prostitute, is working with other prostitutes, in a street where there is the type of activity that the bill is directed towards, a safer working environment than a more dispersed environment of the type that you describe?

Dr Sanders: Working together is obviously much safer for the women. Where there is significant displacement, women will go to streets where they feel that they can avoid detection by the police. They will work on their own much more and go into unlit areas. They will change their patterns of behaviour. They will not use the screening strategies that keep them safe, such as taking down car registration numbers and checking on each other if they are working together. All those collective strategies decrease because of the more intense policing and the concern that their clients may be arrested.

David McLetchie: So, you are saying that, from the standpoint of the prostitute, it is safer to work on the street with a group than to work elsewhere.

Dr Sanders: Yes.

David McLetchie: Thank you.

Margo MacDonald: I want to pick up on the issue of safety. We have not heard all that much about safety. The working group wanted to try to balance the duties of care towards prostitutes and towards the general community. Frankly, we are in danger of losing that perspective.

To put it bluntly, the committee is concerned that there would be an increase in the number of women who work as prostitutes if there were managed zones for them to work in, inside which they would know—according to the intentions of the bill—that they would be most unlikely to trigger the offence. Given your research, do you think that that is a safer environment for the women?

Dr Sanders: Working together in an area where the women know that they will be free from arrest also reduces the likelihood of their experiencing violence from men who pose as clients.

Margo MacDonald: Once again, I am asking for your opinion, which I hope that you do not mind giving. One of the intentions of the expert group was to try to ensure that the women were safe. It was thought that having a complaint-led procedure would provide an incentive for women to work in an area where a complaint would be unlikely to be made by a third person, because the women would not be causing alarm. Were we naive to assume that women could work like that?

Dr Sanders: No, I do not think so. The complaint-led procedure would enable women to work safely and they would not fear that they had to leave the street as quickly as possible in case they were charged with an offence.

Margo MacDonald: The other side of the coin is kerb crawling. There is no doubt that in one area in Glasgow in particular kerb crawling is genuinely alarming for women. Do you think that the bill can achieve the objective of minimising or eliminating the fear and alarm caused to third parties?

Dr Sanders: Are you talking about women who are not selling sex being approached?

Margo MacDonald: Yes, mainly.

Dr Sanders: It is quite difficult to get legislation to address that, because women who are approached deal with it in different ways. Some women are not offended, but others can be very alarmed. If the bill created a complaint-led offence whereby a non-working woman who was approached could make a complaint it would be more powerful for them.

Margo MacDonald: The experience is different in Aberdeen, Glasgow and Edinburgh. In Glasgow there was displacement of a newer and young crowd of prostitutes, who went to work in another area. My question is on displacement of the kerb-crawler. In places in England where studies have been carried out, has the experience been that a crackdown on kerb crawling simply means that kerb-crawlers move to another area? I have seen studies that suggest that that has happened; the problem is simply moved for a while.

Dr Sanders: Yes, definitely. In Birmingham, where I did my original research, there was prostitution in Balsall Heath for more than 10 years. There was intense policing, with two police officers working full-time on the beat as well as a strong streetwatch residents group. The prostitution got moved two miles up the road to Edgbaston, where the problem persists. It has spread out from what was a very small triangle and has dispersed to a much wider area and to places where there is more cause for harassment, such as near schools.

Paul Martin: I have two questions. Margo MacDonald asked you about complaint-led procedures. Do you have any statistics about how many complaints are being made? Do you think that there will ever be an environment where a woman who is the seller will make a complaint?

Dr Sanders: Do you mean a non-working woman?

Paul Martin: No. I mean somebody who is working.

Dr Sanders: Are you talking about somebody who does not want to work in that environment?

Margo MacDonald: I was asking Dr Sanders about the third-party complaint.

Paul Martin: I appreciate that.

Dr Sanders: I do not know of any statistics on women who feel harassed in areas of street prostitution. I refer you to a recent piece of work called "Living and working in areas of street sex work", which looked at five places in Britain and which highlighted that, although there are anxieties for people living there, some women who

are approached by kerb-crawlers are not distressed and alarmed. Ways of dealing with that, such as community mediation, have been pushed forward in recent years.

16:45

Paul Martin: I take it that you have looked into the reasons for displacement. In seven or eight out of 10 cases, there is community concern about activities that are taking place in an area. Is that a reason for displacement? An argument against having a dispersal order, for example, might be that when police look to enforce the legislation because a community is concerned about activities in an area, those activities will be dispersed or displaced to other areas. Is that the case that you are making?

Dr Sanders: Yes. I am talking both about spatial displacement and about displacement in respect of time—people operating at different times, when the police are not there. The sex industry is very good at adapting. People involved in the industry know that the police will not police prostitution on Friday or Saturday nights, because they have other things to do. People will start to work at 4 in the morning, rather than at midnight. Patterns can fluctuate on a weekly basis. In Leeds, where I live, there will be a busy beat if there is a football match, because people know that there are clients and that the police are busy policing football. Legislation must be mindful of the fact that the market is very adaptable.

Paul Martin: Do you accept that street prostitution is antisocial activity?

Dr Sanders: It can be antisocial activity, if people are harassed and distressed, but that is not always the case.

Paul Martin: So it is not antisocial activity if it is in an area that is a managed zone or is industrial.

Dr Sanders: Yes. It is not antisocial if no one in the area has complained about or been offended or distressed by it.

Paul Martin: Are women who are not involved in such activities not allowed to loiter in, pass through or go anywhere near the managed zones to which you refer?

Dr Sanders: Regulation is not that strict in Utrecht and Cologne. However, there are areas that are known for commercial sexual interactions and people would not necessarily use them.

Paul Martin: Do you accept that a woman has a right to go to any part of her local community? Why should women be restricted from entering areas such as those into which you have carried out research?

Dr Sanders: I do not know of a zone that

anyone is restricted from entering. Areas are known for certain activities. There is no argument or call for privatising space. In the UK we have a lot of informal arrangements for tolerance zones or managed zones between the police, health authorities and the women concerned, which ensure that they are not arrested from certain times. There is strong evidence that such arrangements reduce the amount of violence against women. In the zones in Utrecht and Cologne there have been no murders in the past 15 years—since the zones were set up. That is not the case in England, Wales and Scotland, where homicide against women working in the sex industry is rife.

The Convener: That completes our questioning. Thank you for your evidence this afternoon and for your contribution to our consideration of the bill.

The next item on the committee's agenda will be taken in private.

16:48

Meeting continued in private until 17:14.

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